



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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July 22, 2015

Ref: 8P-AR

MEMORANDUM

SUBJECT: Record of Communication – meeting with Uintah & Ouray Business Committee

FROM: Noreen Okubo
Air Program

TO: U&O FIP Options

This memorandum is to serve as a record of communication for a meeting that occurred between the Uintah & Ouray Business Committee and US EPA Region 8 on July 22, 2015, in Ft. Duchesne, Utah.

Attendees:

EPA

- Shaun McGrath, Region 8 Regional Administrator
- Alfreda Mitre, Region 8 Tribal Advisor
- Carl Daly, Air Program Director
- Phil Strobel, NEPA Program Director
- Cindy Beeler, R8 Energy Advisor
- Carol Russell, Watershed Aquifer Protection
- Gary Kleeman, Watershed Aquifer Protection
- Elyana Sutin, Office of Regional Counsel (via telephone)

Ute Tribe

- Shaun Chapoose, Chairman Ute Indian Tribe
- Edred Secakuku, Vice Chairman Ute Indian Tribe
- Tony Small, Councilman Ute Indian Tribe
- Bruce Ignacio, Councilman Ute Indian Tribe
- Ronald Wopsock, Councilman Ute Indian Tribe
- Minnie Grant, Ute Director Air Quality Division
- Mike Natchees, Ute Air Quality Division Staff
- Jeremy Patterson, Frederick's, Peebles and Morgan

Summary of Meeting

The purpose of this meeting was to consult with the Tribe on a FIP options to control VOC's from Oil and Gas Sources on the UOIR.

EPA Talking Points

All options would include requirements identical to current UT rules for existing sources as a base (i.e. auto-igniters for flares, submerged/bottom tank filling, retrofitted pneumatic controllers, and proper equipment operation.

Option #1 If facility has facility-wide VOC emissions >5 TPY have to have controls; so basically follow our minor source program (current day BACT). Emissions based upon PTE, not actual emissions.

Option #2 If facility has a dehydrator with VOC > 5 tpy PTE then it will have to be controlled, and all other VOC-emitting equipment at the site connected will be connected to the dehydrator controls. This will control a lower number of facilities than Option 1, but would get the more reactive VOCs typically emitted by dehydrators.

Option #3 Use the proposed EPA CTGs-issue though is they use a 6tpy threshold (would only cover a small number of facilities and don't cover dehydrators.

Option #4 Develop a rule similar to the Denver area nonattainment plan where goal is a "fleet" wide % reduction – basically the source is responsible for inventorying their "fleet" and then committing to phased reduction in total emissions. This give the operator the flexibility and control to reduce how they want to, but would be the most difficult option to enforce.

Air Quality Background:

High ozone levels have been observed over the last few years at numerous air monitors (tribal and state) in the Uinta Basin during winter inversions (as high as 134 ppb in 2013 – AQI very unhealthy context) ~98% of all VOCs and ~60% of all NOx emissions released in Uinta Basin, which mix to form ozone, are from oil and gas sources – it is estimated that ~75% of those sources are on the Reservation. There are ~10,000 existing oil and gas wells producing in the basin without federally required emission control.

Avenues for Addressing Emissions:

- EPA does have a permit rule for new minor air pollution sources in Indian country; however, the effective date that is specific to oil and gas sources has been delayed until sometime in 2016 as EPA works on a national strategy for controlling emissions from oil and gas.
- EPA and the Ute Tribe co-hosted a meeting on April 14th with the oil and gas industry to discuss getting emission reductions on existing and new sources on the Reservation. As follow-up to that meeting, Western Energy Alliance (the industry's trade group) sent a June 18th letter to Chairman Chapoose that outlines what they are currently doing to address oil and gas emission controls on the Reservation, i.e. voluntary, discretionary strategies and what is required by regulations, NEPA Records of Decision, and consent decrees. In its letter, the Western Energy Alliance did not commit to any additional actions to reduce emissions from existing sources.
- We have also asked the Tribe's Air Program to consider how it could use its own authorities to formalize these voluntary reductions. We were very happy to hear that on June 15, 2015, the Tribal

Air Program received approval from the Business Committee to attach emission control requirements for oil and gas wells within the Tribe's business license and access permit process. The requirements will apply to tank batteries, storage tanks and compressors. We understand that beginning in October 2015, the Tribe will attach conditions for existing wells through the license/permit renewal process.

Reservation-Specific FIP Discussion:

- As we seek more information about how the Ute Air Program's efforts are working to attach emission control requirements to tribal licenses, and for the reasons we will discuss next, EPA is also considering a U&O Reservation-specific rule (Federal Implementation Plan - FIP) for reducing VOC and NOx emissions from existing oil and gas sources (as these are the emissions that can react in the air and form ozone).
- As part of EPA's strategy for oil and gas, a national rule for new oil and gas sources in Indian country will be proposed in the next couple of months.
- But right now it looks like it will only cover new sources and require compliance with other EPA oil and gas rules (such as the NSPS OOOO for oil and gas production sources). Our understanding is that it will not have a requirement for reducing emissions from existing oil and gas sources.
- It will not require individual permits or a general permit for new oil and gas sources, so industry would not need to be concerned about delays in obtaining permits from EPA for new development.
- The proposed national rule will mention that EPA can do a Reservation-specific rule if the national rule is determined to not be adequate to address local air quality issues.
- EPA does plan consultation with tribes on the proposed national rule soon.
- Based on this planned national approach, we think that a Reservation-specific FIP could be used to fill the gap of reducing VOC and NOx emissions from existing oil and gas production sources on the U&O Reservation.
- It would consider Utah's rules (and other state/Tribal oil and gas rules) for emission reductions at existing oil and gas sources on state land and be consistent with any requirements developed under EPA's national oil and gas rules.
- A Reservation-specific FIP would be implemented in advance of the 2017 ozone designations process, in time to achieve early reductions that could lead to lower winter ozone levels and improved air quality in the Basin.
- If we proceed forward with the FIP process, EPA envisions a process where the Tribe would be an integral part of all of those Stakeholder meetings; would that be a role the Tribe would be interested in - being that integral party, at the table with EPA when we meet with the State, with Industry, and other federal agencies?

Ozone NAAQS:

- EPA also proposed in December 2014 to revise the ozone NAAQS and the final ozone standard will be issued in October 2015.
- If the ozone standard is revised it will start a non-attainment area designation process.
 - States/tribes submit recommended designation to EPA by October 2016 and EPA will finalize the designations by October 2017. State and federal plans for bringing areas into attainment would be required in late 2020 for areas designated “moderate” non-attainment and 2021 for serious and higher areas.
- With the extended implementation wait times (past 2017) for attainment plans, EPA does not want to wait to address the Basin's serious ozone problem.
- As part of the Tribe’s enrollment in EPA’s Ozone Advance program, EPA has been working with the Tribe’s Air Program providing technical assistance and capacity building through various research efforts.
- The Reservation-specific FIP could prepare the basin to receive a lower nonattainment ozone classification, fewer restrictions on future oil and gas development, and more flexibility in returning to attainment status.

Conclusions:

- EPA also wants to thank the Tribe for agreeing to work with us and the state of Utah on the development of a basin wide emission inventory, as this is important work that is needed as we start the ozone designation process.
- We would also like you to know that industry has agreed to help UDAQ, EPA and the tribe by providing oil and gas emission inventory information. We are planning to send a written request out to basin operators in July, with the goal of a complete “Phase 1” inventory by the end of 2015, followed by a more detailed “Phase 2” inventory in 2016.
- Thank you for considering these proactive steps (including a potential Reservation-specific FIP) to help control oil and gas emission on the Reservation. We would expect the Tribe would work closely with us during the development of any Reservation-specific rule. We would also offer consultation on any rulemaking in the future.
- We would now like to hear from the Business Committee on any questions, comments, or concerns you have on the information we have shared.

Ute Tribal Questions and Concerns

With respect to the topic of air quality in the Uinta Basin:

- Five of the five Committee members present expressed support of Reservation-specific rulemaking to reduce air emissions from existing sources.
- They support the concept of a level playing field in the Uinta Basin where requirements on state lands is similar to Indian country.
- They would like open and early communication as EPA develops a regulatory approach and would like a timeline shown to them.
- They seemed concerned about the role of local County governments.